



February 15, 2008

ENGROSSED SENATE BILL No. 10

DIGEST OF SB 10 (Updated February 13, 2008 2:15 pm - DI 69)

Citations Affected: IC 11-8; IC 11-11; IC 35-43; noncode.

Synopsis: Inmate fraud. Permits the department of correction to freeze all or a portion of an inmate's account while investigating whether the inmate has committed inmate fraud or while a criminal case involving inmate fraud is pending against the inmate. Requires the department to return money in the inmate's account to the rightful owner if the inmate is convicted, and specifies that the money will be deposited in the violent crime victims compensation fund if the rightful owner cannot be located. Makes it inmate fraud, a Class C felony, for an inmate to, with the intent of obtaining money or other property from a person who is not an inmate, knowingly or intentionally: (1) make a misrepresentation to a person who is not an inmate and obtain or attempt to obtain money or other property from the person who is not an inmate; or (2) obtain or attempt to obtain money or other property from the person who is not an inmate through a misrepresentation made by another person. Authorizes the disclosure of certain information to a person who is or may be the victim of inmate fraud.

Effective: July 1, 2008.

Steele

(SENATE SPONSORS — LAWSON L, FOLEY)

January 8, 2008, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

January 16, 2008, amended, reported favorably — Do Pass.

January 22, 2008, read second time, ordered engrossed.

January 23, 2008, engrossed.

January 24, 2008, read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

January 30, 2008, read first time and referred to Committee on Courts and Criminal Code.

February 14, 2008, amended, reported — Do Pass.

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ES 10—LS 6026/DI 106+



February 15, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 10

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 11-8-5-2, AS AMENDED BY P.L.173-2006,
2 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2008]: Sec. 2. (a) The department may, under IC 4-22-2,
4 classify as confidential the following personal information maintained
5 on a person who has been committed to the department or who has
6 received correctional services from the department:

7 (1) Medical, psychiatric, or psychological data or opinion which
8 might adversely affect that person's emotional well-being.

9 (2) Information relating to a pending investigation of alleged
10 criminal activity or other misconduct.

11 (3) Information which, if disclosed, might result in physical harm
12 to that person or other persons.

13 (4) Sources of information obtained only upon a promise of
14 confidentiality.

15 (5) Information required by law or promulgated rule to be
16 maintained as confidential.

17 (b) The department may deny the person about whom the

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information pertains and other persons access to information classified as confidential under subsection (a). However, confidential information shall be disclosed:

- (1) upon the order of a court;
- (2) to employees of the department who need the information in the performance of their lawful duties;
- (3) to other agencies in accord with IC 4-1-6-2(m) and IC 4-1-6-8.5;
- (4) to the governor or the governor's designee;
- (5) for research purposes in accord with IC 4-1-6-8.6(b);
- (6) to the department of correction ombudsman bureau in accord with IC 11-11-1.5; ~~or~~
- (7) to a person who is or may be the victim of inmate fraud (IC 35-43-5-20) if the commissioner determines that the interest in disclosure overrides the interest to be served by nondisclosure; or**
- ~~(7) (8)~~ if the commissioner determines there exists a compelling public interest as defined in IC 4-1-6-1, for disclosure which overrides the interest to be served by nondisclosure.

(c) The department shall disclose information classified as confidential under subsection (a)(1) to a physician, psychiatrist, or psychologist designated in writing by the person about whom the information pertains.

(d) The department may disclose confidential information to the following:

- (1) A provider of sex offender management, treatment, or programming.
- (2) A provider of mental health services.
- (3) Any other service provider working with the department to assist in the successful return of an offender to the community following the offender's release from incarceration.

(e) This subsection does not prohibit the department from sharing information available on the Indiana sex offender registry with another person.

SECTION 2. IC 11-11-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. As used in this chapter:

"Contraband" means property the possession of which is in violation of an Indiana or federal statute.

"Prohibited property" means property other than contraband that the department does not permit a confined person to possess. **The term includes money in a confined person's account that was derived**

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1 **from inmate fraud (IC 35-43-5-20).**

2 SECTION 3. IC 11-11-2-4 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) When the
4 department seizes property, it shall give the affected person written
5 notice of the seizure. This notice must include the date of the seizure,
6 the property seized, the name of the person who seized the property, the
7 reason for the seizure, and the fact that the department's action may be
8 challenged through the grievance procedure.

9 (b) When the department seizes property of a confined person that
10 it later determines is neither contraband nor prohibited property, it shall
11 return the property to that person or make such other reasonable
12 disposition as directed by that person.

13 (c) Except as provided in subsection (d) **or section 6 of this**
14 **chapter**, when the department seizes prohibited property, it shall
15 forward the property to a person or address designated by the confined
16 person or make any other reasonable disposition.

17 (d) **Except as provided in section 6 of this chapter**, money seized
18 as prohibited property shall be deposited in the inmate recreation fund
19 of that institution established under IC 4-24-6-6.

20 SECTION 4. IC 11-11-2-6 IS ADDED TO THE INDIANA CODE
21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
22 1, 2008]: Sec. 6. (a) **This section applies if the department has**
23 **reasonable suspicion that money in a confined person's account**
24 **was derived from the commission of inmate fraud (IC 35-43-5-20).**

25 (b) **If the department has reasonable suspicion that money in a**
26 **confined person's account was derived from the commission of**
27 **inmate fraud, the department may freeze all or a part of the**
28 **confined person's account for not more than one hundred eighty**
29 **(180) days while the department conducts an investigation to**
30 **determine whether money in the confined person's account derives**
31 **from inmate fraud. If the department freezes the account of a**
32 **confined person under this subsection, the department shall notify**
33 **the confined person in writing.**

34 (c) **If the department's investigation reveals that no money in**
35 **the confined person's account was derived from inmate fraud, the**
36 **department shall unfreeze the account at the conclusion of the**
37 **investigation.**

38 (d) **If the department's investigation reveals that money in the**
39 **confined person's account may have been derived from the**
40 **commission of inmate fraud, the department shall notify the**
41 **prosecuting attorney of the results of the department's**
42 **investigation.**

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(e) If the prosecuting attorney charges the confined person with inmate fraud, the department shall freeze the confined person's account until the case reaches final judgment.

(f) If the prosecuting attorney does not charge the confined person with inmate fraud, or if the confined person is acquitted of the charge of inmate fraud, the department shall unfreeze the confined person's account.

(g) If the confined person is convicted of inmate fraud, the department, in consultation with the prosecuting attorney, shall locate the money or property derived from inmate fraud and return it to the rightful owner.

(h) If, ninety (90) days after the date of a confined person's conviction for inmate fraud, the department has located the money or property derived from the commission of inmate fraud but is unable to return the money to the rightful owner, the department shall deposit the money in the violent crime victims compensation fund established by IC 5-2-6.1-40.

SECTION 5. IC 35-43-5-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 20. (a)** As used in this section, "inmate" means a person who is confined in:

(1) the custody of:

(A) the department of correction; or

(B) a sheriff;

(2) a county jail; or

(3) a secure juvenile facility.

(b) An inmate who, with the intent of obtaining money or other property from a person who is not an inmate, knowingly or intentionally:

(1) makes a misrepresentation to a person who is not an inmate and obtains or attempts to obtain money or other property from the person who is not an inmate; or

(2) obtains or attempts to obtain money or other property from the person who is not an inmate through a misrepresentation made by another person;

commits inmate fraud, a Class C felony.

SECTION 6. [EFFECTIVE JULY 1, 2008] IC 35-43-5-20, as added by this act, applies only to crimes committed after June 30, 2008.

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 10, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 14, after "(IC 35-42-5-20)" insert **"if the commissioner determines that the interest in disclosure overrides the interest to be served by nondisclosure"**.

Page 4, line 29, after "obtains" insert **"or attempts to obtain"**.
and when so amended that said bill do pass.

(Reference is to SB 10 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 6, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 10, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, delete lines 27 through 33, begin a new paragraph and insert:

"(b) An inmate who, with the intent of obtaining money or other property from a person who is not an inmate, knowingly or intentionally:

- (1) makes a misrepresentation to a person who is not an inmate and obtains or attempts to obtain money or other property from the person who is not an inmate; or**
- (2) obtains or attempts to obtain money or other property from the person who is not an inmate through a misrepresentation made by another person;**

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commits inmate fraud, a Class C felony."

and when so amended that said bill do pass.

(Reference is to SB 10 as printed January 17, 2008.)

HOY, Chair

Committee Vote: yeas 8, nays 0.

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